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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,615	10/01/2003	Toby Holden	WDO 34980	7939

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EXAMINER
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JOHNSON, BLAIR M

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/676,615

**Applicant(s)**

HOLDEN ET AL.

**Examiner**

Blair M. Johnson

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10-30-03.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

***Claim Rejections - 35 USC § 112***

Claims 6,20 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The springs 42 and the manner by which they bias the arms is not adequately disclosed.

There is no antecedent basis for "said motorized drive assembly".

In claim 20, "another end of said roll-up tube" is ambiguous since no other end has been recited.

Claims 10-14 and 22-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The recitation of a joint assembly in the arm is not adequately supported by the disclosure.

There is no antecedent basis for "said motorized drive assembly".

In claim 20, "another end of said roll-up tube" is ambiguous since no other end has been recited.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Element 47 in Fig. 4A is not discussed in the specification.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5 and 7-9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hsu.

In Hsu, see the roll up tube between 23,24, motor 5, battery C (Fig. 4) and solar panels 4.

### ***Claim Rejections - 35 USC § 103***

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsu in view of Yamaguchi et al.

In Hsu, see the roll up tube between 23,24, motor 5, battery C (Fig. 4) and solar panels 4. What is not shown is the motor mounted in the tube. However, such is old as illustrated by Yamaguchi et al at 7. In view of this teaching, it would have been obvious to modify Hsu whereby his motor is in his tube, thereby reducing the overall size of the device.

Claims 10-19,22-26 and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Girard et al in view of Hsu.

See tube 22, rod 28, canopy 16, spring loaded arms 4-,42, and motor 50 inserted inside of tube 22: What is not shown is the solar panel and the battery. However, as discussed above, Hsu discloses these features. It would have been obvious to modify Girard et al whereby he has such a solar device so as to render the awning independent of power supply from the house or vehicle on which the awning is mounted.

Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knight et al in view of Girard et al.

Knight et al discloses everything except the drive assembly mounted in the tube. However, Girard et al discloses such. It would have been obvious to modify Knight et al to have such a drive device so as to automate the awning operation.

Claims 27 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heiser in view of Girard et al.

Heiser discloses everything except the drive assembly mounted in the tube. However, Girard et al discloses such. It would have been obvious to modify Heiser to have such a drive device so as to automate the awning operation.

Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akers in view of Hsu.

See arms 66,68, tube 18, canopy 14, and motor 40. Hsu discloses the solar panels and battery as discussed above. It would have been obvious to modify Akers et al whereby he has such a solar device so as to render the awning independent of power supply from the house or vehicle on which the awning is mounted.

### ***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (703) 308-0526. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Blair M. Johnson  
Primary Examiner  
Art Unit 3634

BMJ  
11/29/04